IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WP Nos. 19735, 19747, 19885,19903, 20008, 20112,20121,20171, 20245 and 20328 of 2004

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1. WRIT PETITION NO : 19735 of 2004

Between:

Kudula Veera Venkata Satyanarayana, S/o. Narasimha Murthy,
R/o. Teeparu Village, Perveli Mandal, West Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh rep. by its Secretary, Industries and Commerce Dept. Secretariat, Hyderabad.
2 The District Level Committee, rep. by its Chairman, West Godavari.District..
3 The District Panchayat Officer, West Godavari District, at Eluru.
4 Sai Baba Reddy, S/o. Jagadhal Reddy
r/o Pekeru, Eragavaram Mandalam, W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court mayl be pleased to Issue an order or writ one in the nature of writ of Mandamus, declaring the action of the respondents in proceedings ROC.No.5102/2004, A3(pts) confirming the auctions held on 20.10.2004 in favour of fourth respondent in pursuant to the Notification No.5102/04, dt. 03.10.2004 for West Godavari District as arbitrary, illegal, unjust, unconstitutional and in violation of Rule 9 (B) (4), Rule 9(H)(1) to Rule 9 (H) (4) of A.P. Minor Mineral Concession Rules, 1966.

For the Petitioner: Sri D.Prakash Reddy, Senior Counsel for MS.K.N.VIJAYA LAXMI, Advocate

For the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.4: Sri C.V.MOHAN REDDY, Advocate

2. WRIT PETITION NO : 19747 of 2004

Between:

Kandula Ganapathy Rao, S/o. Narasimha Murthy,
R/o. Teeparu, West Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary, Industries and Commerce Department, Secretariat Buildings, Hyderabad.
2 The District Level Committee, Rep. by its Chairman, West Godavari District, Eluru.
3 The District Panchayat Officer, West Godavari, Eluru.
4 Sai Baba Reddy, S/o. Jagadhal Reddy,
R/o. Pekeru, Eragavaram Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or Writ one in the nature of Writ of Mandamus, declaring the action of the Respondents in proceeding to confirm the auctions held on 20-10-2004, in favour of fourth respondent for entire District of West Godavari District and not confirming the auction held on 20-10-2004 in favour of petitioner for Polavaram Reach, West Godavari District as arbitrary, illegal, unjust and contrary to Rule 9(B) (1) and Rule 9(H) (1) of A.P. Minor Mineral Concession Rules, 1966

For the Petitioner:SMT.N.SHOBA , Advocate

For the Respondent Nos. 1 to 3.: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.4: SRI C.V.MOHAN REDDY, Advocate

3. WRIT PETITION NO : 19885 of 2004

Between:

1. Kotha Venkata Venu Gopal Krishna Murthy, S/o.Sri Jagga Rao,
R/o Peddavam, West Godavari Dist.
2 M.Srinivasa Rao, S/o.Sri Narayana rao,
R/o.Ramannapalem, West Godavari Dist.

..... PETITIONERS

AND

1 The District Level Committee for Sand Auctions, West Godavari District, rep.by its Chairman.
2 The District Panchayat officer-cum-Member Convener, District Level Committee for sand auctions, West Godavari Dist. Eluru.
3 The District Collector, West Godavari Dist, W.G.
4 Joint Collector, West Godavari Dist., Eluru.
5 V.Sai Baba Reddy, S/o.Jaldareddy,
R/o.Pekeru of Iragavaram Mandal, West Godavari Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of Respondents 1 to 4 in conferring leasehold rights in favour of the 5th respondent, the highest bidder who had bid for all the 22 sand reaches of river Godavari in West Godavari district as a single package, pursuant to the auction notification dated 3-10-2004, as arbitrary, illegal, violative of principles of natural justice, ultra vires the rules of G.O.Ms.No.1, dated 1-1-2001, and in violation of Articles 14 19(1) (g) of the Constitution of India, and consequently set aside the proceedings in Roc.No.5102/ 2004, A3(pts), dated 25-10-2004, confirming the leasehold rights for quarrying sand in reaches of river Godavari in West Godavari district, in favour of the 5th respondent.

For the Petitioner: Sri Ramesh Ranganatham, Senior Counsel for MR.R.SUDHEER , Advocate

For the Respondent Nos.1 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.5: SRI C.V.MOHAN REDDY, Advocate

4. WRIT PETITION NO : 19903 of 2004

Between:

The Venkateswara Labour Contract Co-Operative Society Ltd., (Regd.No.343F) Bhupathivari Street, 4th ward Narsapur-534 275, West Godavari District, rep. by its President Mr. Bh.V.V.Satyanarayana.

..... PETITIONER

AND

1 The State of A.P, rep. by its Principal. Secretary to Government,
Industries and Commerce Dept., Secretariat, Saifabad, Hyderabad.
2 The Commissioner of Panchayat Raj Rural & Employment Government of A.P., Government Insurance Bldgs, Tilak road, Abids, Hyderabad.
3 The District Level Auction committee for Sand West Godavari District, Eluru, Rep. by its Convenor, District Panchayat Office.
4 The District Collector & Magistrate, W.G.District, Eluru.

5 Sri V. Saibaba Reddy Pekeru, Irgavaram Mandal, W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a direction or an order, or a writ or direction more particularly one in the nature of writ of Certiorari, a) calling for records pertaining to proceedings in Roc.No.5102/2004, A3 (Pts) Dt. 25.10.2004 and quash or set-aside the same declaring it as illegal and violative of Articles 14 and 19 (1) (g) of the Constitution of India. b) Consequently direct the respondents 3 and 4 to confer the right of quarrying sand/collection of Seignorage fee in Koderu Reach between Kms. from 30.00 to 45-400, 44/6-8, on the writ petitioner society..

For the Petitioner:MR.NUTY RAM MOHAN RAO, Advocate

For the Respondent Nos.1 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.5: SRI C.V. MOHAN REDDY, Advocate

5. WRIT PETITION NO : 20008 of 2004

Between:

Vadapalli Boatsmen Labour Contract cooperative Society, rep by President, Pragada Nageswara Rao, S/o Krishna Rao R/o Vadapalli (V), Kovvuru Mandal, West Godavari District

..... PETITIONER

AND

1 The Government of A.P., rep by its Secretary, Industries & commerce Department, Secretariat Buildings, Hyderabad
2 The District Level Committee, rep by Chairmen, West Godavari District, Eluru
3 The District Panchayat Officer, West Godavari, Eluru.
4 Sai Baba Reddy, S/o Jagadhal Reddy
R/o Pekeru Eragavaram Mandalam, West Godvari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or Writ one in the nature of Writ of Mandmaus, declaring the action of the Respondents in confirming the auctions held on 20-10-20004, in favour of fourth respondent for entire District of West Godavari District in Proceedings Roc. NO. 5102/2004 A3(Pts), on 25-10-2004 and not confirming the auction held on 20-10-2004 in favour of petitioner society for Vadapalli Reach, West Godvari district as arbitrary, illegal, unjust and contrary to Rule 9(B)(1) and Rule 9(H)(1) of A.P. Minor Mineral Concession Rules, 1966

For the Petitioner:SMT.N.SHOBA, Advocate

For the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.4: SRI C.V.MOHAN REDDY, Advocate

6. WRIT PETITION NO.20112/2004

Between:

Kovvuru Boatsmen Co-operative Society, represented by its President, S.S. R.K.Prasad, S/o Subbaiah, aged 48 years, resident of Kovvur (v) and (M), West Godavari District.

..Petitioner.

and

1. The Government of A.P. represented by its Secretary, Industries & Commerce Department, Secretariat Buildings, Hyderabad.

2. The District Level Committee represented by its Chairman, West Godavari District, Eluru.

3. The District Panchayat Officer, West Godavari, Eluru.

4. Sai Baba Reddy, S/o Jagadhal Reddy, aged about 40 years, resident of Pekeru, Eragavaram Mandalam, West Godavari District.

..Respondents.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an order or writ one in the nature of writ of Mandamus, declaring the action of the Respondents in confirming the auctions held on 20-10-2004, in favour of fourth respondent for entire district of W.G.District in proceedings ROC.No. 5102/2004 A3(pts), on 25.10.2004 and not confirming the auction held on 20-10-2004 in favour of Petitioner Society for Kovvuru Reach, W.G. District as arbitrary, illegal, unjust and contrary to Rule 9(B) (1) and Rule 9(H) (1) of A.P. Minor Mineral Concession Rules, 1966.

For the Petitioner: Smt. N. Shoba, Advocate

For the Respondents 1 to 3: Govt., Pleader for Panchayat Raj

For the Respondent No.4: Sri C.V.Mohan Reddy, Advocate

7. WRIT PETITION NO : 20121 of 2004

Between:

Mullapudi Srinivas Kumar Choudary, S/o. Krishna Rao,
R/o. Purushothapalli, West Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary, Industries &

Commerce Department, Secretariat Buildings, Hyderabad.
2 The District Level Committee, Rep. by its Chairman, West Godavari District, Eluru.
3 The District Panchayat Officer, Wesgt Godavari, Eluru.
4 Sai Baba Reddy, S/o. Jagadhal Reddy,
R/o. Pekeru, Eagavaram Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of Writ of Mandamus, declaring the action of the Respondents in proceeding to confirm the auctions held on 20-10-2004, in favour of fourth respondent for entire District of West Godavari District and not confirming the auction held on 20-10-2004 in favour of petitioner for Pandalaparru Reach, West Godavari District as arbitrary, illegal, unjust and contrary to Rule 9(B) (1) and Rule 9(H)(1) of A.P. Minor Mineral Concession Rules, 1966

For the Petitioner:SMT.N.SHOBA, Advocate

For the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.4: SRI C.V. MOHAN REDDY, Advocate

8. WRIT PETITION NO : 20171 of 2004

Between:

Venkateswara Boatsmen and Sand Workers Labour Contract Cooperative Society, rep by its President, P. Srinivas, S/o. Sri Rama Rao,
aged 35 years, R/o. Aurangabad, West Godavari District.

..... PETITIONER

AND

1 The Government of A.P. rep by its Secretary, Industries & Commerce Department, Secretariat Buildings, Hyderabad.
2 The District Level Committee, rep by its Chairman, West Godavari District, Eluru.
3 The District Panchayat Officer, West Godavari, Eluru.
4 Sai Baba Reddy, S/o. Jagadhal Reddy,
R/o. Pekeru, Eragavaram Mandalam, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of writ of Mandamus, declaring the action of the Respondents in confirming the auctions held on 20-10-2004 in favour of the fourth respondent for entire District of West Godavari District in proceedings ROC No.5102/2004 A3(PTS) on 25-10-2004 and not confirming the auction held on 20-10-2004 in favour of Petitioner Society for Aurangabad Reach, West Godavari

District as arbitrary, illegal, unjust and contrary to Rule 9(b) (1) and Rule 9(H)(1) of A.P. Minor Mineral Concession Rules, 1966.

For the Petitioner:SMT.N.SHOBA, Advocate

For the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

For the Respondent No.4: SRI C.V. MOHAN REDDY, Advocate

9. WRIT PETITION NO : 20245 of 2004

Between:

The Narasapuram Sand Quarry Boatsmen and Fishermen Cooperative Society Ltd., rep., by its President Pemmadi Narasimha Rao, s/o P.Venkata Swamy, aged about 60 years, r/o Ankanivaripalem, 17th Ward, Narsapuram, West Godavari District.

..... PETITIONER

AND

1 The Government of A.P., rep., by its Secretary, Industries & Commerce Department, Secretariat Buildings, Hyderabad.
2 The District Level Committee, rep., by its Chairman, West Godavari District, Eluru.
3 The District Panchayat Officer, West Godavari, Eluru.
4 Sai Baba Reddy, s/o Jagadhal Reddy,
r/o Pekeru, Eragavaram Mandalam, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of writ of mandamus, declaring the action of the respondents in confirming the auctions held on 20-10-2004, in favour of fourth respondent for entire District of West Godavari District in Proceedings ROC No.5102/2004 A3(Pts.) on 25-10-2004 and not confirming the auction held on 20-10-2004 in favour of petitioner society i.e., the Narasapuram sand Quarry Boats Men and Fishermen Cooperative Society Ltd., for Reach No.21, Chinchiwada and Reach No.22, Y.V.Lanka, Badava & Narasapuram, West Godavari District as arbitrary, illegal, unjust and contrary to Rule 9(B)(1) and Rule 9(H)(1), A.P.Minor Mineral Concession Rules, 1966.

For the Petitioner:SMT.N.SHOBA, Advocate

For the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.4: SRI C.V.MOHAN REDDY, Advocate

10. WRIT PETITION NO : 20328 of 2004

Between:

Boatsmen & Fishermen Coop. Society Ltd., Rozole, E.G.District,
rep. by its President R. Venkateswarlu, Aged 45, S/o. Narayana Swamy, R/o. E.G.district.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by its Secretary,
Industries and Commerce Department, Secretariat, Hyderabad.
2 The District Level Committee, rep. by its Chairman, W.G.District, Eluru.
3 The District Panchayat Officer, West Godavari at Eluru.
4 V. Saibaba Reddy, S/o. Jagadhal Reddy,
R/o. Pekeru, Ergavaram Mandal, W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in confirming the auctions held on 20.10.2004, in favour of the fourth respondent for entire district of West Godavari District in Proceedings ROC.No.5102/2004 A3(pts), dt. 25.10.2004 and not confirming the auctions held on 20.10.2004 in favour of the petitioner Society i.e., the Narsapuram Sand Quarry Boats Men and Fishermen Cooperative Society Limited for Reach No.21, Chinchinada and Reach No.22, Y.V.Lanka, Badava & Narasapuram, W.G. District as arbitrary, illegal, unjust and contrary to Rule 9(B)(1) and Rule 9 (H)(1) of A.P.M.M.C. Rules, 1966.

For the Petitioner: MR.N.LAKSHMIDHAR, Advocate

For the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

For the Respondent No.5: SRI C.V. MOHAN REDDY, Advocate

The Court made the following :

THE HON'BLE MR. JUSTICE A. GOPAL REDDY

W.P.NOS. 19735, 19747, 19885, 19903,

20008, 20112, 20121, 20171,

20245 and 20328 of 2004

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ORDER:

All these writ petitions have been heard together since they have common features and common issues were raised. The factual backdrop of the controversy relevant for the purpose of present proceedings may be stated thus:

The District Level Committee, West Godavari District notified sand bearing areas and issued Auction Notification Nos.4040/04, 5101/04 and 5102/04 dated 03-10-2004 proposing to conduct auction to the sand bearing reaches – reach wise, package wise and district wise respectively on 20-10-2004. All the petitioners have participated in the auction on the said date. Firstly auctions were conducted to the district package, i.e. 22 reaches as a single package, 22 reaches as 6 packages next and individual reaches at the last. All the 22 reaches as a single package fetched a bid amount of Rs. 2,73,50,000/-, whereas 6 packages fetched Rs.1,87,63,639/- and reach wise fetched Rs.2,80,98,692/-. It is not in dispute that as per Rule 9 (H) (1) of A.P. Minor Mineral Concession Rules, 1966 (for short 'the Rules') issued in G.O.Ms.No.1, Industries and Commerce dated 01-01-2001, bidders have to pay 25% of the knocked down amount on the immediate next working day, i.e. on 23-10-2004 since 21st and 22nd were holidays. Auctions were knocked down in respect of 18 bidders where 22 reaches were independently auctioned. Since only 8 bidders have come forward to pay 25% of the knocked down amount and the remaining bidders have not turned up, the bidder who offered 36,50,000/- against the minimum amount/upset price of Rs.2,50,000/- to the Parikkilanka reach, submitted a letter dated 23-10-2004 stating that he participated in the auction and his companion raised bid was upto Rs.36,50,000/- without his knowledge and

expressed inability to pay the knocked down amount and requested for cancellation. As the individual bidders have not come forward to deposit 25% of the knocked down amount till 5.00 P.M. on 23-10-2004, the District Level Committee, after reviewing the matter, called upon the highest bidder in respect of the district package – 4th respondent in W.P.No.19735 of 2004 whether he could enhance the bid amount equal to the amount of all the 22 reaches independently fetched. 4th respondent accepted the same and deposited 25% of the knocked down amount on 24-10-2004. On such deposit, confirmation was issued in his favour treating all the reaches as District Package, which led to filing of the present writ petitions.

Petitioner in W.P.No.19735 of 2004, who is the second highest bidder of the District Package wrote a letter on 24-10-2004 stating that 4th respondent failed to deposit 25% of the knocked down amount and that he is ready to deposit the same and requested the District Level Committee to issue confirmation order. It is contended that there is no procedure for negotiations under the Rules calling the highest bidder; the committee has to either confirm the same or cancel the auction. Rule 9 (B) (2) of the Rules contemplates for conducting auction either reach wise or village wise. Hence, the very auctioning of entire district is arbitrary and without any competency, which was done only to benefit the 4th respondent. When petitioner was willing to enhance the bid amount to Rs.2,90,000,00/- he should have been called for negotiations along with the fourth respondent, but he was not called and the entire procedure adopted is arbitrary and illegal. Once the highest bidder failed to deposit 25% of the knocked amount, the petitioner being the next highest bidder should have been called to deposit the same as per Rule 9-H (4).

The petitioners in WP No.19885/2004 state that they have participated in the tender process by submitting sealed tenders for reach Nos.5 and 15 offering Rs.19,15,000/- and Rs.10,75,000/- against the minimum amount/upset price fixed at Rs.12 lakhs and 5 lakhs respectively. Accordingly, they deposited 25% of the minimum bid amount towards EMD along with tender applications. In view of the procedure adopted in calling for bids by three different methods, unless the total bid amount of all 22 reaches, which were auctioned individually, fetched highest revenue, the petitioners were not entitled for confirmation. Though 22 reaches were notified for auction, bids were received for 18 reaches only amounting to Rs. 2,80,98,692/- and

if the 4 reaches which were left over are put in auction subsequently, the amounts would likely to be enhanced, which will fetch highest revenue. Instead of confirming bids in favour of the highest bidders who have participated in the said method of all 22 reaches being auctioned individually, adopting the method of individual reaches informing the highest bidders to deposit the amount, it is not possible for the petitioners to deposit 25% of the knocked down amount. Failure to intimate the petitioners both regarding the method adopted and deposit of 25% of the knocked down amount is in violation of principles of natural justice. In spite of the same, the second petitioner approached the official respondents on 21-10-2004 and 23-10-2004 and expressed his intention to deposit 25% of the knocked down amount after adjusting EMD deposit. The petitioners were informed that the Committee has not taken any decision to adopt which method. All of a sudden the official respondents adopted the first method, namely, to lease out all the reaches, as one unit, which is arbitrary and illegal. In the absence of petitioners and others participants being informed about the intention to adopt the method, whether reaches were auctioned individually defaulting in deposit of the knocked down amount cannot be attributed to the petitioners. Though the first petitioner deposited the bid amount, respondents refused to receive the bid amount of the second petitioner, who is the highest bidder.

The petitioner in WP Nos.19747/2004 states that he was the highest bidder for reach No.1 ie., Polavaram reach offering Rs.15 lakhs as against the minimum amount/upset price of Rs.2 lakhs. He further states that he approached the authorities on 21-10-2004 with DDs but they refused to receive the same stating that the District Level Committee is interested in confirming the bid of the fourth respondent. In the absence of any procedure for negotiations with the fourth respondent, awarding contract to him is arbitrary and illegal.

WP Nos. 20008/2004, 20112/2004, 20121/2004, 20171/2004, 20245/200 and 20328/2004 and WP No.19903/2004 are filed by Boatmen Co-operative Societies and Fishermen Cooperative Societies respectively. They state that minimum amount/upset price fixed was abnormally high and without any basis and all societies tendered their bids. They further state that they were given benefit to

deposit the bid amount in four equal quarterly instalments and 10% concession on the highest bid/tendered amount offered in the auction hall. Adopting the method to club 22 reaches as one unit and accepting the bid of the fourth respondent stating that all the reaches are treated as one unit would deprive the Boatmen Cooperative Societies of their legitimate rights to the concessions extended to them.

Sri D.Prakash Reddy, learned Senior Counsel appearing for the petitioners in WP No. 19735/2004 urged that the fourth respondent who is the highest bidder of the District package failed to deposit the knocked down amount on the next working day as per sub-rule (1) of Rule 9-H. In such an event, the authorities have to issue confirmation order in favour of the second highest bidder as per sub-rule (4) of Rule 9-H. When the authorities negotiated with the fourth respondent to increase the bid amount, the same should be extended to other participants of the District Package. When the petitioner made a representation on 24-10-2004 pointing out non-deposit of 25% of the knocked down amount by R-4 and he being the second highest bidder, his bid should be considered, instead of considering the claim of the petitioner, the respondents 1 to 4 accepted the deposit of 25% of the knocked down amount of the fourth respondent, who admittedly deposited the same after the specified date on his agreeing to increase the bid amount. In the absence of any provision for negotiations either in the Rules or in the notification, negotiating with the fourth respondent and awarding contract is arbitrary and illegal in the light of the law declared by the Apex Court in ***FOOD CORPORATION OF INDIA V. M/S. KAMADHENU CATTLE FEED INDUSTRIES .***

Sri Ramesh Ranganatham, learned Senior Counsel appearing for the petitioners in WP No.19885/2004 contends that against the minimum amount/upset price fixed at Rs.12 lakhs and 5 lakhs for reach Nos.5 and 15 respectively, the petitioners 1 and 2 offered Rs.19,15,000/- and Rs. 10,25,000/- and the first petitioner deposited 25% of the knocked down amount on intimation. Since there was no intimation to the second petitioner he has not deposited. If there is any deviation from the rules notified, entire process of tender-cum-auction will become invalid and the authorities have to notify afresh and fresh auction should be conducted. Under sub-rule (2) of Rule 9-B, the District Committee is competent to club or sub-divide reaches wherever necessary. Once the individual reaches fetch highest amount, the authorities should have proceeded to award contracts to the highest bidders and finalise the same as per the notification issued. Once Rules contemplate payment of

25% of the knocked down amount on the next working day, the amount deposited by the fourth respondent is not in tune with the sub-rule (1) of Rule 9-H. Every tenderer shall be eligible to participate in the auction only after he obtains hall ticket from District Panchayat Officer as per rule 9-D(v)(a). Announcement in the auction hall that all reaches are auctioned does not arise unless the highest bid amount is known. When the petitioners specifically pleaded that District Level Committee to take a decision on 25-10-2004 with regard to the method of auction to be approved for confirming leasehold rights, the same has not been denied. Bid amount of the unsuccessful tenderer shall be returned and failure to deposit the 25% of the knocked down amount can be forfeited as per Rule 9-E of the Rules. Therefore, the very fact that amount has not been forfeited clearly discloses that the authorities have not intimated the petitioners for deposit of 25% of the bid amount.

Smt. N.Shoba, learned counsel appearing for the petitioners in WP Nos.19747/2004, 20008/2004, 20112/2004, 20121/2004, 20171/2004, and 20245/2004 contends that all the petitioners participated in the auction for individual reaches. She further submits that the petitioner in WP No.19747/2004 was the highest bidder for reach No. 1 ie., Polavaram offering Rs. 15 lakhs against the minimum amount/upset price of Rs.2 lakhs, but the respondents refused to receive 25% of the knocked down amount. Though the petitioner made a representation on 23-10-2004 requesting to issue confirmation orders by accepting DDs for the entire bid amount, the same has not been considered. The resolution of the District Level Committee dt. 21-10-2004 is false since no bidder was asked to deposit 25% of the knocked down amount. The authorities have power to condone the delay in depositing of 75% of the balance amount but not for 1/4th of bid amount; therefore permitting the fourth respondent to deposit the 25% of the knocked down amount after specified date is without jurisdiction, that too without negotiating with second highest bidder. Boatmen Co-operative Societies should be given priority in allotting reaches and petitioner in WP No.20245/2004 is willing to deposit the required amount without claiming any benefits.

Sri Nooty Rama Mohan Rao, learned counsel appearing for the petitioner in WP No.19903/2004 contends that the petitioner in WP No.19903/2004 was the highest bidder for reach No.17 (Koderu Reach). Under sub-rule Rule 9-B auction can be

conducted either reach or village wise. Clubbing all reaches or divide can be done only after identification by the River Conservator as per Rule 9-B(2)(a) and auction will be followed only after such identification with the consultation of River Conservator but not otherwise. Sand quarrying leases should provide employment to unemployed persons, that too to uplift the weaker sections, therefore, the same should be auctioned reach wise, so that it will benefit the weaker sections at large.

Per contra, learned Government Pleader for Panchayat Raj contends that as per notification three methods are notified to be followed in conducting auction of sand quarrying to ensure highest revenue. In Cl.4 of the note appended to underneath the notification, it is clearly mentioned that District Level Committee will follow either of the methods at the time of conducting open auction in consultation with the contractors. First auction was conducted for District Package followed by 2nd and 3rd methods, namely, all the 22 reaches as six packages and all the 22 reaches independently respectively. All the 22 reaches independently fetched highest amount of Rs.2,80,98,692/- and since the individual bidders failed to deposit 25% of the knocked down amount, the authorities called upon the fourth respondent who is the highest bidder in respect of District Package to deposit the amount of 25% of the knocked down amount, by enhancing the amount equal to that of the all 22 reached independently fetched, which is in accordance with the notification issued and the Rules in force.

Sri C.V.Mohan Reddy, learned counsel for the fourth respondent urged that all the participants in the auction are made known to the procedure to be followed, therefore, it is not open for them to contend that R-2 cannot adopt the policy of three methods. Once sub-rule (2) of Rule 9-B authorizes to club or sub-divide the reaches wherever necessary, in the absence of any mala fides attributed to R-2 or its officers calling upon the fourth respondent to deposit the 25% of the knocked down amount is in tune with the procedure to be followed. Only on failure to deposit the knocked down amount by the highest bidders who have participated in the auction for individual reaches on 23-10-2004, the District Level Committee, (second respondent) called upon the fourth respondent to deposit the 25% of the knocked down amount, which was deposited on the next day. All the tenderers are eligible to be participated in the auction after obtaining hall ticket from the District Panchayat Officer and there is no obligation on them to submit bid as well as tender. Respondents 2 and 3 in their counter-affidavit categorically stated that all the highest

bidders in respect of individual reaches were called upon to deposit 25% of the knocked down amount on the date of auction itself. In the absence of any denial of the same, the question of non-informing about deposit and their willingness to deposit the amount does not arise. Rule 9-E contemplates that right of quarrying sand shall ordinarily be knocked down to the highest bidder but right is reserved to the officer conducting proceedings or by the District Level Committee to reject any of the tenders without assigning any reasons. There is no obligation on the part of the official respondents to issue confirmation order in favour of the second highest bidder as per sub-rule (4) of Rule 9-H. As the authorities have not knocked down his tender, since the bid amounts for individual reaches are not known, which was conducted subsequently, R-4 cannot expect to deposit the bid amount, which was intimated to him only on 23-10-2004 and accordingly he deposited the amount. In the absence of any reservation contemplated under the Rules for allotment of reaches in favour of the Boatmen Co-operative Societies, they are not entitled to claim any concession. If R-4 is not agreeable to enhance the bid amount equal to that of the amount fetched for individual reaches, the authorities cannot legally insist to raise the said amount. In the open auction, though the petitioner in WP No.19735/2004 had an option to revise the bid amount equal to that of the fourth respondent, having not utilized the said opportunity, he cannot complain that he is entitled to be negotiated with the fourth respondent. In fact there is no negotiation, since respondent No.4 being the highest bidder for District Package, he was called upon to deposit the 25% of the knocked down amount. When the offer of the petitioner is more than Rs. 2,01,23,444-79 with that of the offer of R-4, what prevented him to enhance the bid amount during the auction equal to that of R-4 is not known and it is only an after thought.

In support of his contentions, he relied upon the following decisions:

1. ***AIR INDIA V. COCHIN INTERNATIONAL AIRPORT LIMITED***

2. ***ROUNAQ INTERNATIONAL LTD. V. I.V.R. CONSTRUCTION LTD. AND OTHERS***

3. ***MONARCH INFRASTRUCTURE (P) LTD. V. COMMISSIONER ULHASNAGAR MUNICIPAL CORPORATION***

4. ***TATA CELLULAR V. UNION OF INDIA***

In the note appended to underneath the tender-cum-auction notification for sand quarry leasehold rights issued by the second respondent, it is clearly mentioned that sand in certain reaches should be quarried through boats. 10% Rebate will be given to the Boatmen Co-operative Societies registered under the A.P. Co-operative Societies Act on the bid/tender amount and the successful bidders, in whose favour the auction will be knocked down have to pay the balance bid amount in four equal quarterly instalments, each instalment should be paid in advance before commencement of the quarter. The persons who are interested in participating in the tender process, have to apply separately for each method and any tenderer who wants to participate in a particular package has to deposit 25% of the minimum price towards EMD. As lease period for Reach Nos.4 and 13 namely, Prakkilanka and Kanuru has not been expired, lease will be commenced from the completion of current auction period or the District Level Committee will take a decision either to commence the lease with effect from the date of expiry of existing lease or to cancel the same. Condition No.4 contemplates that District Level Committee has the right to adopt any one of the three methods, which fetches highest income to the District. Rule 9-B (2) authorizes the District Level Committee constituted under G.O.Ms.No. 356 Industries & Commerce Department dt. 22-11-1999 and G.O.Ms.No.165 Industries & Commerce (M1) Department dt. 23-2-2000 to club or sub-divide reaches wherever necessary and District Level Committee shall be the authority competent to decide on any matter or problem arising during the course of implementation the Rules as per Rule 9-B (2) (b). As per Rule 9-B (1)(v)(a) every tenderer shall be eligible to participate in the auction only after he obtains hall ticket from the District Panchayat Officer. No person shall be admitted in the auction hall without the hall ticket issued by the District Panchayat Officer concerned as per rule 9-E and the right of quarrying sand shall ordinarily be knocked down to the highest bidder but right is reserved to the officer conducting proceedings or by the District Level Committee or by the Government, as the case may be, to reject any tender or bid without assigning any reasons. All the petitioners who participated in the tender process aware of the procedure to be followed as notified.

Rule 9-H is an important rule, on which much reliance has been placed by either counsel, which reads as under:

"9-H. Deposit of the lease amount and execution of lease agreement.

1. When the tender/bid is knocked down by the competent authority, the successful tenderer or bidder shall remit in a Zilla Parishad General funds a sum equivalent to 25% of the knocked down amount and submit the same to the District Panchayat Officer on the immediate next working day.

2. The successful tenderer/bidder on receipt of the order of the confirmation shall remit the remaining 75% of the knocked down amount in the General Funds of the Zilla Parishad concerned on or before the dates specified in the order of confirmation and submit the challans to the concerned District Panchayat Officer along with a security deposit of 2% of the knocked down amount subject to the minimum of Rs.1,000/- (Rupees one thousand only) through postal savings account or bank guarantee certificate from any Nationalized Bank duly pledged in favour of Chief Executive Officer's of Zilla Parishad's concerned and execute the lease deed in form G-1 on stamped paper as per the Registration and Stamps Act within a week from the date mentioned in the order of confirmation. The lease period shall commence with effect from the date of the execution of the lease deed. However, the confirming authority shall have the power to condone the delay in payment of the 75% of the knocked down amount, not exceeding two weeks from the date of confirmation of sale.

3. If the successful tenderer or bidder fails to pay either 25% of the knocked down amount on the next working day or the remaining 75% of the knocked down amount within the specified time as mentioned in the confirmation order or extended period, the amount so far paid by the successful tenderer/bidder shall be forfeited to the Government. The confirming authority is competent to forfeit the deposits to the Government.

4. In the event of default by the first successful tenderer or bidder, the competent authority may issue confirmation

> order in favour of the second or subsequent highest tenderer or bidder in descending order provided if retains the 25% of the minimum bid deposited at the time of participating in the auction."

Let me then briefly return to the authorities cited by either counsel.

In the case of ***FOOD CORPORATION OF INDIA*** (1 supra), the facts are that the Food Corporation of India, who invited tenders for sale of stocks of damaged foodgrains was not satisfied about the adequacy of the amount offered in the highest tenders for purchase of the stocks of damaged foodgrains; instead of accepting any of the tenders submitted, FCI invited all the tenderers to participate in the negotiations and when the respondent-Cattle Feed Industries refused to revise the rates quoted, highest offer made during the negotiations was accepted. Questioning the same, the respondent filed writ petition challenging that he being the highest tender submitted, it is not open for the Food Corporation of India to dispose of the stocks of damaged foodgrains by subsequent negotiations rejecting his tender on the ground that a higher bid was obtained by negotiations, which is arbitrary, illegal and violative of Art. 14 of the Constitution of India. Accepting the said submission Panjab and Haryana High Court allowed the writ petition. On appeal the Supreme Court at para 7 observed as under:

> "In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to Art, 14 of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This imposes the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision-making process in all State actions. To satisfy this requirement of non-arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate

> discretion in the exercise of power, as it is unrealistic, but provides for control of its exercise by judicial review."

The Supreme Court further observed at para 8 as follows:

> "….Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent."

While observing so, the Supreme Court allowed the appeal setting aside the order passed by the High Court holding that the procedure involves giving due weight to the legitimate expectation of the highest bidder to have his tender accepted unless outbid by a higher offer, in which case acceptance of the highest offer remain open would be a reasonable exercise of power for public good.

In the case of ***AIR INDIA LTD.,*** (2 supra), the facts are that Cochin International Airport Limited (CIAL), a public sector undertaking invited offers for awarding a contract for ground-handling facilities at the new airport for setting up and maintaining a new international airport at Cochin. The committee constituted by CIAL met on 28-9-1998 and found Cambatta and Air India are Indian organizations, operate mainly in India and have better proven adaptability for operating in Indian conditions and recommended Cambatta for awarding the work. Whereas Government of India wrote a letter to the Government of Kerala recommending Air India for awarding the contract. In view of the same discussions were held by the Chief Minister of Kerala with Air India. The Board of Directors of CIAL decided to have a detailed discussion with Air India before taking a final decision. On coming to know of the developments, Cambatta wrote a letter to the Chief Minister of Kerala pointing out their experience and took exception to the effort made by Air India to revise its offer , which was unethical and deserved to be condemned. Thereafter, Cambatta filed a writ petition in the Kerala High Court challenging the action of CIAL

in negotiating with the Air India. The said writ petition was dismissed by the learned single Judge. But on appeal, the Division Bench held that though the decision of the Evaluation Committee was only recommendatory and not binding on the Board of Directors of CIAL, the fact that Evaluation Committee had considered all the relevant aspects and found Cambatta as the most competent party and yet no reasons were disclosed for explaining what prompted the Board of Directors to take a different view was clearly indicative of the fact that CIAL was influenced in its decision making process by Air India and the Secretary of the Ministry of Civil Aviation. The Division Bench further held that it was not impressed with the reasons given in the counter-affidavit as it was well known that the reasons given in the counter-affidavit cannot be accepted for what has happened at the time of acceptance of offer and also of the view that if the other tenderers had also been invited for negotiations by CIAL then possibly they would have given better offers and pointed out the demerits of the offers made by the rival tenderers. On Air India Limited filing appeal before the Supreme Court, the Supreme Court after considering its earlier decisions, set-aside the order passed by the Division Bench by confirming the decision of the learned single Judge held at para 7 as under:

> "….The award of contract, whether it is by a private party or by a public body or the State, is essentially a commercial transaction. In arriving at a commercial decision considerations which are of paramount are commercial considerations. The State can choose its own method to arrive at a decision. It can fix its own terms of invitation to tender and that is not open to judicial scrutiny. It can enter into negotiations before finally deciding to accept one of the offers made to it. Price need not always be the sole criterion for awarding a contract. It is free to grant any relaxation, for bona fide reasons, if the tender conditions permit such a relaxation. It may not accept the offer even though it happens to be the highest or the lowest. But the State, is corporations, instrumentalities and agencies are bound to adhere to the norms, standards and procedures laid down by them and cannot depart from them arbitrarily. Though that decision is not amenable to judicial review, the Court can examine the decision making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness. The State, is corporations, instrumentalities and agencies have the public duty to be fair to all concerned. Even when some defect is found in the decision making process the Court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The Court should always keep the larger public interest in mind

in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the Court should intervene.

In the case of ***RAUNAQ INTERNATIONAL LIMITED*** (3 supra), the Supreme Court detailed the scope of judicial review in contractual matters in the case dealing with public interest litigation challenging awarding of contract.

In the case of ***TATA CELLULAR V. UNION OF INDIA*** (5 supra), the Supreme Court laid down principles in para 94 and also reiterated the principle laid down in ***STERLING COMPUTERS V. M & N PUBLICTIONS LIMITED***, namely, the government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

Under Rule 9-B (2) it is always open for the District Level Committee to club or sub-divide the reaches wherever necessary. Accordingly, necessary notification was issued by making it clear that the auction will be conducted in three methods and District Level Committee is competent to adopt/ accept any one of the methods, which fetches more revenue to the Government. It is not in dispute that auction for the entire District was conducted first, followed by other two methods. It is not in dispute that the petitioner in WP No.19735/2004 and the fourth respondent participated in the auction for entire district notified in Notification No.5102 dt. 3-10-2004 consisting of 22 reaches and the minimum amount/upset price fixed is Rs. 1,97,19, 269/-, and fourth respondent emerged as highest bidder as he quoted at Rs.2,73,50,000/-, whereas the second highest bidder ie., petitioner quoted at Rs. 2,73,25,000/-. After conducting auction for the District package first, the respondents conducted auction for six packages followed by individual reaches. Unless the highest bid amount in either of the methods made known auction cannot be knocked

down in favour of the highest bidder in the first method and only after knowing the highest bid price fetched in all the three methods, it can be knocked down in favour of the highest bidder, if it is the highest among all the methods. As per the notification, the authorities have necessarily to explore the possibility of securing higher revenue, which was fetched in 3rd method. Only on bidders failed to deposit the amount as referred to above, the fourth respondent was informed to deposit 25% of the knocked down amount and accordingly he deposited the amount. Though there is a controversy with regard to the fact that highest bidders were not informed of the same, the petitioner in WP No.19735/2004 filed a representation dt. 24-10-2004 stating that though all the highest bidders of the individual reaches and District packages were asked to pay 25% of the knocked down amount, no bidder has paid the same. He further requested that as he is the highest bidder, confirmation may be given to him. The first petitioner in WP No.19885/2004 also deposited 25% of the knocked down amount on the next working day ie., 23-10-2004 and some of the petitioners were also deposited the amount. Unless the District Level Committee failed in its attempt to lease out all reaches as single unit as District Package to get highest revenue, it cannot be said that the highest bid of the District Package was knocked down in favour of the fourth respondent, who is under obligation to deposit the 25% of bid amount. The said controversy arises only when the individual highest bidders of individual reaches failed to deposit the knocked down amount on the next working day. Admittedly only 8 individual bidders have deposited the amount and remaining bidders have not deposited the amount and one of the bidder who offered his bid amount at Rs.35 lakhs against the minimum amount/upset price of Rs. 2 lakhs requested the authorities to cancel his bid and fresh auction may be conducted, which clearly discloses that the highest bid in respect of individual reaches at the auction was deliberately raised to cross the higher bid arrived in the auction conducted to the District Package since by that time highest bid amount arrived at for District Package was made known to all bidders who have participated in the individual reaches. The petitioner in WP No.19735/2004 in his representation dt. 24-10-2004 has not asserted that he is wiling to pay the highest bid amount fetched in 3rd method, but he requested the authorities to confirm his tender since he being the second highest bidder. In his affidavit filed in support of the writ petition, he categorically stated that the Committee either has to confirm the same or cancel the auction and very auctioning of entire District as one unit is arbitrary and without any competency and it was conducted only to benefit the fourth respondent contrary to

the rules, which clearly establish that the petitioner was not willing to take at the highest price fetched in either of the methods but is interested only in canceling the auction and re-auction of the same, having participated in the auction along with the fourth respondent for the entire District as per the notification, it is not open for him to contend that conducting auction by the District Level Committee for the entire District is contrary to the rules and only to benefit the fourth respondent. In his representation dt. 24-10-2004 he has not expressed his willingness to enhance the bid amount equal to that of R-4, unless he outbid by highest offer, he cannot contend that authorities should call him for negotiations since he being the second highest bidder. Unless notification specifies that District Level Committee will negotiate with the tenderers who participated in the first method and unless the petitioner offers that he is agreeable to deposit the highest bid amount fetched as per the third method, he cannot claim that he is entitled to be negotiated on par with the fourth respondent as fourth respondent is the higher bidder entitled to be confirmed on his depositing 25% of bid amount on failure to explore the possibility of other two methods. Infact on information of the highest bid, he agreed to deposit the amount and deposited the same on the next working day and accordingly his bid was accepted with that of the highest bid fetched in the other methods.

The submission made by Sri Ramesh Ranganatham that grant of lease is contrary to the rules mocks arbitrariness cannot be accepted since there is no arbitrariness in accepting the highest bid. When the petitioners in WP No.19885/2004 were the highest bidders and among all the bidders who have participated for individual reaches in the auction deposited the said amount on the next day including first petitioner in WP No.19885/2004 clearly discloses that individual reaches holders were called upon to deposit the 25% of the knocked down amount. Only on failure of their deposit, the authorities felled back to award the contract to the highest bidder. The petitioner in WP No.19735/2004 made a representation dt. 24-10-2004 stating that bidders for individual reaches failed to deposit the 25% of the knocked down amount on the next day as also so fourth respondent clearly shows that all bidders were informed to deposit 25% of the knocked down amount. All Boatmen Co-operative Societies were deposited the amount. Since highest bidder for reach No.4 Pakkilanka who has offered Rs.36,15,000/- against the minimum amount/upset price of Rs.2,50,000/- wrote a letter that his partner participated in the auction without his

knowledge and inability to pay the amount and requested to cancel the bid. In view of the same, it is not possible to award the contract to the individual bidders who participated in the third method who have not come forward to deposit 25% of the amount and only on failure to deposit the same, the authorities accepted the bid under first method which is in tune with the note appended to underneath the notification.

The submission made by the learned counsel for the Boatmen Co-operative Societies that they are entitled to preferential treatment cannot be countenanced for the reason that no reaches are reserved for Boatmen Co-operative Societies. But, if Boatmen Co-operative Societies happen to be the highest bidders they are entitled to 10% rebate over the highest bid/tender amount and successful bidder in whose favour auction will be knocked down shall have to make payment of the bid amount in four equal quarterly instalments, each instalment should be paid in advance before commencement of the quarter. The very fact that counsel for the Boatmen Co-operative Societies vehemently urged that the petitioner in WP No.19735/2004 and other participants should have also been negotiated when R-2 switched over on failure to deposit of the individual bidders of 3rd method probabilises that all the petitioners were set up by the petitioner in WP No.19735/2004. The petitioner-societies in WP No.20112/2004 and 20245/2004 offered less than the minimum price for the individual re

aches and participated in the District auction and other participants in the auction are set up to see that the amount croses the highest bid amount offered by R-4 and to see that his bid shall not be confirmed.

There is no material on record to show that the bid amount fetched in the third method is low and will fetch higher amounts if re-auctioned. The entire edifice of the writ petitions is based on the challenge to the increase of bid amount fetched in District package amounts to negotiation with R-4 who failed to deposit 25% of bid amount on the next day. There is no material to show the tender price is understated and R-4's bid was knocked down on 20-8-2004. In the absence of the same, it is not possible for me to accept that the authorities acted unfairly or irrationally in

confirming the highest bid fetched in the District package increasing bid amount to that of individual reaches.

As rightly held by the Supreme Court in the case of ***FOOD CORPORATION OF INDIA*** (1 supra) that rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but provides for control of its exercise by judicial review and whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. If the bonafide decision of the public authority reached would satisfy the requirement of non-arbitrariness and withstand scrutiny, the doctrine of expectation gets assimilated in the rule of law. The Supreme Court reiterated the view taken by it in ***STERLING COMPUTERS*** (6 supra) namely, under some special circumstances a discretion has to be conceded to the authorities who have to enter into contract giving them liberty to assess the overall situation for purpose of taking a decision as to whom the contract be awarded and at what terms. If the decisions have been taken in bona fide manner although not strictly following the norms laid down by the courts, such decisions are upheld on the principle laid down by Justice Holmes, that courts while judging the constitutional validity of executive decisions must grant certain measure of freedom of "play in the joints" to the executive, in the case of ***TATA CELLUR*** (5 supra). In the absence of any mala fides as such were attributed to the authorities, awarding of contract to the fourth respondent, who emerged, as highest bidder for the entire District does not suffer form any infirmities or illegalities warranting interference by this court.

The writ petitions fail and they are accordingly dismissed. No costs.

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A.GOPAL REDDY,J

Dt. 18-1 1-2004

Kmr

Note: CC by Monday

(BO)

To

1. The Principal Secretary to Government, Industries land Commerce Department, The State of A.P., Secretariat, Saifabad, Hyderabad.

2. The Secretary, Industries and Commerce Department, The Government of A.P., Secretariat, Hyderabad.

3. The Chairman, The District Level Committee, West Godavari.District, Eluru...
4. The District Panchayat Officer, West Godavari District, at Eluru.
5. The Chairman, The District Level Committee for Sand Auctions, West Godavari District.

6. The District Panchayat Officer-cum-Member Convenor, District Level Committee for Sand Auctions, West Godavari District, Elouru.

7. The District Collector, West Godavari Dist, W.G.
8. The Joint Collector, West Godavari Dist., Eluru.
9. The Commissioner of Panchayat Raj Rural & Employment Government of A.P., Government Insurance Buildings, Tilak road, Abids, Hyderabad.
10. The Convenor, District Pasnchayat Officer, The District Level Auction committee for Sand West Godavari Eluru.
11. 2CCs to the Government Pleader for Panchayat Raj, High Court Buildings, Hyderabad (OUT)

12. 2 CCs to the Government Pleader for Industries land Commerce, High Court Buildings, Hyderabad (OUT)

13. 2CD copies